

APPROVED MINUTES
CITY OF MILPITAS

Minutes:	Regular Meeting of Milpitas City Council
Date of Meeting:	May 3, 2005
Time of Meeting:	6:30 p.m. (Closed Session) 7:00 p.m. (Public Business)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

ROLL CALL

Mayor Esteves called to order the regular meeting of the Milpitas City Council at 6:30 p.m. Present were Mayor Esteves, Vice Mayor Gomez, Councilmembers Livengood, Polanski and Giordano

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following item listed on the agenda:

Conference with Real Property Negotiator Pursuant to Government Code Section 54956.8 Property: APN No. 086-12-010. Triangular Shaped Parcel at the Southeast Corner of Great Mall Parkway and S. Abel Street. Negotiating Party: Milpitas Redevelopment Agency and County of Santa Clara. Under Negotiation: Terms and Conditions for Acquisition of Property.

Mayor Esteves adjourned the meeting to the Closed Session at 6:31 p.m.

The City Council meeting reconvened at 7:00 p.m. with Mayor Esteves presiding and Vice Mayor Gomez and Councilmembers, Livengood, Polanski and Giordano present.

CLOSED SESSION

City Attorney Mattas announced the Council voted 5-0 to authorize the staff to do an appraisal on the property referenced, APN No. 086-12-010.

**ANNOUNCEMENTS
PLEDGE**

Members of Troop No. 92 led the Council and audience in the Pledge of Allegiance.

MINUTES

MOTION to approve the City Council minutes of April 19, 2005, as amended.

M/S: Livengood/Giordano	Ayes: 5
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SCHEDULE OF MEETINGS

MOTION: To approve the Schedule of Meetings.

M/S: Gomez/Giordano.	Ayes: 5
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PRESENTATIONS

Proclamations:

Mayor Esteves stated Building Safety Week is an excellent opportunity to educate the public. This year's theme is "Making Homes, Schools and Workplaces Safer Together". He asked citizens to consider projects to improve building safety at home. He proclaimed May 8 through May 14, 2005, as Building Safety Week in Milpitas and presented the proclamation to Keyvan Irranejad, Milpitas Chief Building Official.

Mayor Esteves reported that strokes are the leading cause of disability and the third cause of death in the U.S. today. The Peninsula Stroke Association was founded in 1999 with the mission to educate people about the warning signs of stroke and to provide support for stroke survivors and caregivers. Last Year over 90 volunteers contributed 6,500 hours of service to the community by donating their time. He stated the Peninsula Stroke Associate relies on the generosity of individual donors, corporate and foundation grants to provide the programs and services free of charge. He proclaimed the Month of May 2005 as Stroke Awareness Month

in the City of Milpitas and presented the proclamation to Ms. Rezvan Moghaddan, Executive Director of the Peninsula Stroke Association.

Mayor Esteves stated that the City of Milpitas joined cities and counties throughout California in promoting Thursday, May 19, 2005 as a statewide Bike to Work Day. He stated the American Lung Association, the Metropolitan Transportation District, and the California Bicycle Coalition will participate in the Bay Area's Bike to Work Day during the month of May. He proclaimed May 19, 2005 as Bike to Work Day and May 2005 as Bike to Work Month in Milpitas. He presented the proclamations to Bicycle Transportation Advisory Commission (BTAC) Chair Bill Reisinger.

Mayor Esteves stated the VFW Buddy Poppies, made by disabled veterans, and proceeds of this worthy fund raising campaign are used exclusively for the benefit of the disabled and needy veterans and the widows and orphans of deceased veterans. He declared May 2005 as Buddy Poppy Month and urged citizens to recognize the merits of this cause by contributing generously through the purchase of Buddy Poppies. He urged citizens to wear a Buddy Poppy as evidence of gratitude to the men and women who have risked their lives in defense of freedom.

Mayor Esteves stated eye glass recycling is performed in 13 Lions Clubs International Eyeglass Recycling Centers in the world, with 7 in the United States, and makes sure that glasses are cleaned, categorized by prescription and prepared for distribution in developing countries by LCI and other groups. He stated Eye Glass Recycling is a prime activity for Lions Clubs International in May and declared May 2005 as Eye Glass Recycling Month in the City of Milpitas. The proclamation was presented to Mr. Ray Maglalang, President of the Milpitas Executive Lions Club, Mr. Don Simpson, Incoming District Governor, District 4-C6, Mr. Rudy Stefenel, Chair of Recycled Eyeglasses Collection for MELC, and Mr. Chris Morris, Incoming Vice District Governor.

Mayor Esteves stated the City of Milpitas recognizes the value of their senior citizens to improve the life of Americans as they mature and recognizes the value of their senior citizens in the community. The City has planned special events during the month of May:

- Trips, Fioli Gardens and Sacramento Dixieland Jazz Jubilee
- Ice Cream Social
- BBQ and Dance Party
- Health Presentations
- "Walk a Golden Mile"
- Memorial Day Ceremony

He proclaimed the month of May 2005 as Older Americans Month in the City of Milpitas and encouraged residents to join in recognizing senior citizen contributions. He presented the proclamation to Ms. Barbara Ebright and Ms. Doris Vasquez.

Commendations

Mayor Esteves recognized the following Volunteer Income Tax Assistance Volunteers (VITA) with a commendation.

Milpitas Community Library	Mei Luo
John Bult	Carol Mattson
Tina Hernandez	Vicky Nguyen
Ana Chern	Euclid Taylor
Zoraida Conyers	Kim Chi Thanh
Veronica Hernandez	Chun Li Wu
Wai-Ling Psyche Hung	Laura Qiuying Zhang
Justine Jin	Jim Critz
Yan Liu	Gabriela Escobar
Xiaouri Liu	Shahid Mujaba

Mr. Mujaba made a Power Point presentation of the accomplishments, services and members of VITA.

CITIZENS FORUM

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks be limited to two minutes or less.

Ed Conner, a member of the public, stated he was impressed with the advancements made in electronics, and noted advancements in transportation have gone even further. He stated he would be addressing the Council on BART agenda item.

Tom Mulder, a member of the public, distributed a letter to the Council, expressing his concerns about a neighbor's installation of a fence and retaining wall and requested the Council look into the matter.

Tom Maze, a member of the public, reported that Thursday is the National Day of Prayer and invited the public to a ceremony at 12:00 noon in the courtyard behind the Community Center. He presented a short video on the National Day of Prayer.

A gentleman (name eligible) expressed concerns about noise from the train that runs by the Great Mall and requested the Council look into this matter. He distributed a letter to the Council.

ANNOUNCEMENTS

Councilmember Polanski thanked participants for the tree planting on Arbor Day at Hall Memorial Park.

Mayor Esteves recognized the Vietnamese Community in commemorating the 30th anniversary of the fall of Saigon. He congratulated the Milpitas Rancho Middle School for being one of four schools to watch in the State. He further stated he plans to make his recommendations for the Milpitas boards and commissions at the next City Council meeting.

ANNOUNCEMENT OF CONFLICT OF INTEREST

City Attorney Mattas inquired if any member of the City Council had a Conflict of Interest to disclose it for the record. There were none.

MOMENTS OF REFLECTION

There were no comments.

APPROVAL OF AGENDA

City Manager Lawson reported Councilmember Giordano requested item 6A. be added to the agenda - Consideration of changes to the City Council Handbook related to the functions of the Open Government Commission and Finance Subcommittee and amending Board and Commission eligibility requirements.

Vice Mayor Gomez requested item 3 be continued to May 17 when Dr. Shanks will be available.

MOTION to approve the agenda as amended.

M/S: Gomez/Giordano

Ayes: 5

CONSENT CALENDAR

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar.

MOTION to approve the Consent Calendar.

M/S: Gomez/Giordano

Ayes: 5

***8. Approve Letter of Support of AB 1590**

Approve Letter of Support for AB 1590 Regarding Property Tax Revenue Allocations for Special Districts (Staff Contact: Darryl Wong, 586-3345)

***9. Approve Budget**

Approve a Budget Appropriation: Minor Traffic Projects, Project No. 4024 (Staff Contact:

Appropriation	Jaime O. Rodriguez, 586-3335)
*10. Adopt Resolution Public Hillside Water System	Adopt Resolution Granting Initial Acceptance: Project Hillside Water System Improvement Project, Project No. 7083 (Staff Contact: Greg Armendariz, 586-3335)
*11. Adopt Resolution for Installation of ADA Ramps	Adopt Resolution Authorizing Staff to Submit a Grant Proposal to the TDA Article 3 – Bicycle and Pedestrian Grant Program for the Installation of ADA Ramps at Various School Locations (Staff Contact: Jaime O. Rodriguez, 586-3335)
*12. Award Bid to East Bay Motor Sports	Award Bid to East Bay Motor Sports for Purchase of a Honda ST1300P Police Motorcycle (Staff Contact: Chris Schroeder, 586-3161)
*13. Approve Agreement with Operation Certificate Training	Approve Agreement with Operator Certification Training, Inc. For Advanced Water Supply Certification Training (Staff Contact: Chris Schroeder, 586-3261)
*14. Approve Advertise of Bids Berryessa Pump Station	Approve Plans and Specifications and Authorize the Advertisement for Bids: Berryessa Pump Station, Project 8238 (Staff Contact: Doug De Vries, 586-3313)
*15. Approve Payment Requests	Approve Payment Requests: Miscellaneous Vendors/Contractors (Staff Contact: Chris Schroeder, 586-3161)

PUBLIC HEARINGS

1. Introduce Ordinance Nos. 120.43 and 208.40 Water and Sewer Rates	<p>Darryl Wong, Principal Civil Engineer, presented the staff report. He stated the recommended 2005/06 and 2006/07 Utility Rates meet the Utility Financial Master Plan City revenue requirements for services that were adopted by the Council. The recommendations have been presented to the Utility Rate Sub-Committee. He reported water rate increases are needed due to increased operating cost and infrastructure replacement costs, and sewer rate increases are needed to fund wastewater Treatment Plant costs and infrastructure replacement costs.</p> <p>The Council posed questions regarding a potential decrease in water rates at Ed Levin Park, San Francisco water rates, recycled water for parks, the costs for infrastructure for water, the last increase in water rates, how Milpitas water rates compare to other cities, sewer infrastructure costs, fire services water costs, and sewer rates.</p> <p>Councilmember Giordano stated she wanted to leave the recycled water rates at their present level to encourage the use of recycled water, and inquired about the financial impact.</p> <p>MOTION: Close the Public Hearing</p> <p>M/S: Giordano/Gomez Ayes 5</p> <p>MOTION: Waive the reading beyond the titles</p> <p>M/S: Gomez/Giordano Ayes: 5</p> <p>MOTION: Councilmember Giordano moved to increase all recycled water rates at 50% of the proposed rate increase.</p> <p>The Council entered into a discussion about the impact on the revenue to the City and to the infrastructure projects if proposed recycled water rate increases were cut in half.</p> <p>The MOTION failed with Mayor Esteves, Vice Mayor Gomez, and Councilmembers Livengood and Polanski voting no.</p> <p>MOTION: Introduced Ordinances No. 120.43 setting Water Service and Ordinance No.</p>
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208.40 setting Sewer Service.

M/S: Livengood/Polanski

Noes: Esteves

**2.
Entertainment Event Permit**

Donna Biles, Deputy City Clerk, presented the staff report. She reported the Milpitas Rotary Club has submitted an application for an Entertainment Permit to hold a Butler Amusement Carnival in the Mervyn's parking lot at the Milpitas Town Center from May 12-15, 2005. The application has been reviewed and approved, subject to conditions, by the various City departments.

Todd Flesner, of Stern Mortgage Company, commented that this is the fourth year the Rotary Club has held this event in Milpitas and it has been a successful event. He reviewed what charities the profits are distributed to.

He responded to questions from the Council regarding ticket pick up locations and health permit conditions being met.

MOTION: Close the Public Hearing.

M/S: Gomez/Giordano

Ayes: 5

MOTION: Approve the Entertainment Event Permit for the Milpitas Rotary Club for a Carnival on May 12-15, 2005 at the Mervyn's parking lot at the Milpitas Town Center subject to the special conditions note.

M/S: Polanski/Gomez

Ayes: 5

UNFINISHED BUSINESS

**3.
Ethics Panel Final Report**

Continued to May 17, 2005 Council meeting.

**4.
Introduce Ordinance 54.24
Animal Regulation**

Tambri Heyden, Planning and Neighborhood Services Director, presented the staff report. She stated the proposed ordinance reflects the amendments directed by the Council for re-introduction and noted the master fee schedule needs to be amended.

She responded to questions posed by the Council regarding the amount of the average bond, the cost of appeals and if the fees are refunded back to successful appellants. .

MOTION: Waive reading of Ordinance 54.24 beyond the title.

M/S: Polanski/Gomez

Ayes: 5

MOTION: Introduce Ordinance No. 54.24, should the appellant be successful in their appeal, the fee may be refunded at the discretion of the Council, and bring back a resolution to amend the master fee schedule.

M/S: Polanski/Gomez

Ayes: 5

At this juncture, Mayor Esteves called a recess at 9:10 p.m. and reconvened at 9:20 p.m.

**5.
BART At-Grade Option at
Dixon Landing**

Greg Armendariz, City Engineer, presented the staff report. He introduced members of the VTA, Steve Whitaker, John Donahue and Jack Collins, and gave a brief overview of the draft study and three proposed alternatives. He presented a Power Point Presentation of the proposed driveway closures and described the disadvantages of closing Dixon Landing Road and noted VTA had a meeting with the residents. He further stated the Transportation Subcommittee agreed with staff's recommendation that includes the four conditions included in the recommendation. Mr. Whitaker gave a presentation showing

the overhead view of the proposed project and reviewed the challenges and mitigation measures. Jack Collins stated they can comply with staff recommendations 2, 3 and 4 but cannot comply with 1 regarding the financing of an endowment for the City's storm drain operating and maintenance costs.

The Council inquired if adjacent business were part of the meeting with the VTA, the amount of financing needed for the storm drain operation and maintenance, disadvantages to have Bart recessed, construction impacts on neighborhoods and the businesses, the need for an economic study on the impact on businesses, impact on sales tax revenues, and if the Planning Commission had approved the plan. The Council expressed concern about the fiscal impact to the City and businesses, and requested more work be done with VTA to address the issues.

MOTION: Continue this item. Direct staff to have further discussions with the VTA, the Planning Commission and the Transportation Subcommittee and provide more details on the impact.

M/S: Gomez/Giordano

Ayes: 5

Ed Conner, a member of the public, directed comments to the Council about his concerns on the impact of BART on residents and response times from fire and police. He advocated for another solution.

A gentleman (name eligible) advocated for putting a station in the area where the businesses are located.

JOINT REVEVDEOPMENT AGENCY AND CITY COUNCIL MEETING

**RA1.
CALL TO ORDER**

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 10:04 p.m.

**RA2.
ROLL CALL**

Present were Mayor Esteves, Vice Mayor Gomez, and Agency/Councilmembers Livengood, Giordano and Polanski

**RA3.
MINUTES**

MOTION to approve the Redevelopment Agency minutes of April 19, 2005, including joint meetings with the City Council, as submitted.

M/S: Polanski/Giordano

Ayes: 5

**RA4.
AGENDA**

MOTION to approve the Agenda as submitted

M/S: Livengood/Gomez

Ayes: 5

**RA5.
PROGRESS REPORT ON
LIBRARY DESIGN**

Mark Rogge, Principal Engineer, presented the staff report. He reviewed the schematic design, cost plan review, design development, project schedule and budgeted expenditures, design development schedule, project schedule, the cost plan considerations and concept and schematic design schedule, and an update on the parking garage.

MOTION: Note receipt and file the progress report on the Library design.

M/S: Gomez/Livengood

Ayes: 5

**RA6.
FINANCIAL STATUS
REPORT**

Emma Karlen, Finance Director, presented the staff report. She showed a Power Point presentation that covered the regional unemployment rate, sales tax revenue numbers, City sales tax, General Fund revenue compared to the budget, General Fund revenue Highlights, and General Fund expenditures.

MOTION: Receive the staff report.

M/S: Livengood/Polanski

Ayes: 5

***RA7.
INVESTMENT PORTFOLIO**

City of Milpitas Investment Portfolio Report for the Nine Months Ended March 31, 2005
(Staff Contact: Emma Karlen, 586-3145)

**RA8.
ADJOURNMENT**

There being no further Redevelopment Agency Business, Mayor Esteves adjourned the Redevelopment Agency meeting at 10:20 p.m.

REPORTS OF OFFICERS AND BOARDS

Community Advisory Commission

**6.
Non-Denominational
Invocations**

Tambi Heyden, Planning and Neighborhood Services Director, presented the staff report. She reported that at the December 21, 2004 meeting the City Council considered having a short non-denominational invocation at City Council meetings and directed that the CAC add to its short-term work plan the potential of having an invocation prior to the start of the Council meeting and to solicit feedback from the community. She reviewed the survey results and the legality of invocations as part of public meetings.

Staff responded to questions regarding the law dealing with non-denominational invocations, the need for guidelines and an implementation policy.

Councilmember Giordano suggested having each Councilmember be responsible for one month as is the practice in San Jose.

Councilmember Polanski stated she had no objections to non-denominational invocations but did not agree with using the same method as San Jose.

Vice Mayor Gomez expressed his support to start the Council meetings with a non-denominational invocation and having each Councilmember responsible for a one month period.

Mayor Esteves requested a list of all denominations in Milpitas so that no one would be overlooked and agreed that Councilmembers should have the right to decline participation. He requested the selection be fair and random.

MOTION: Received the CAC's report, direct staff to develop a policy that all City Council meetings will begin with a non-denominational invocation, each Councilmember to be given a month to be responsible for finding an appropriate person to lead the non-denominational invocation, Councilmembers are not required to participate, and that the policy be disseminated to the Council to give to the leaders of the invocation.

M/S: Livengood/Gomez

Ayes: 5

City Council

**6A.
City Council Handbook**

Councilmember Giordano requested the City Council consider modifying the City Council Handbook to state the functions of the Open Government Commission and the Finance Subcommittee, as well as all the subcommittees, and revise the qualifications to serve on a board or commission to include residing within the Milpitas Unified School District.

In response to Mayor Esteves, City Attorney Mattas stated the only change recommend for boards or commissions is to include residents within the Milpitas Unified School District and that the Council could look at each commission to determine if the proposed change should be applied. Mr. Mattas suggested the language in the Handbook regarding board and commission qualifications be more explicit and summarize the functions of

each board and commission. Mr. Mattas further responded that the Open Government Ordinance states that board/commission members are appointed by the Council and would report back if there is a State Law provision that the Mayor makes appointments for some commissions.

Councilmember Polanski stated that all the boards/commissions should be reviewed and she would like to review this in more detail before making any decisions. She suggested bringing back the item as a regular agenda item, and posed questions regarding Councilmember liaisons and the function of the Open Government Commission.

Councilmember Livengood suggested the Council focus on the additional proposed language regarding board or commission member's eligibility to serve if they are within the Milpitas Unified School District area and consider the other proposals at a later date.

MOTION: To adopt the final paragraph as written:

"No member of any board of commission may be a member of any board or commission or hold any paid position with the City, unless otherwise approved by the City Council. In order to be eligible for an appointment to any board or commission, a person must be a resident of the City, or, within the Milpitas Unified School District area, unless otherwise provided by law."

Mayor Esteves and Councilmember Polanski expressed concerns about the short time to consider the proposals and opening up the membership on boards and commissions to non-residents of the City of Milpitas.

M/S: Livengood/Gomez

Noes: Esteves/Polanski

NEW BUSINESS

7. Post Retirement Medical and Dental Benefits Plans

Emma Karlen, Finance Director, presented the staff report. She stated in December 2004 the City Council approved an agreement with Nicolay Consulting Group to perform an actuarial valuation on retiree Medical and Dental Benefits Plans. She showed a Power Point presentation that covered retiree medical benefits pertaining to new government accounting standard, effects on State and local governments, the current method of pay as you go, the new standard, accrue amount while employees are active, disclosing annual required contribution amount, funding progress, and contribution deficiency or surplus. She stated the unfunded liability is \$49 million to catch up and that funded liability can be spread over 30 years or pre-fund and place the money in a trust. She requested more time to research the funding issue and report back to the Council.

Councilmember Giordano requested that staff give this priority and supported researching the funding issue further.

MOTION: Accept the actuarial valuation report of the City's postretirement medical and dental benefits plan.

M/S: Polanski/Livengood

Ayes: 5

ORDINANCES

None

ADJOURNMENT

There being no further business, Mayor Esteves adjourned the City Council meeting at 11:03 p.m.

Respectfully submitted,
Donna Biles, Deputy City Clerk

The foregoing minutes were approved by the City Council with amendments on May 17, 2005.

Donna Biles

Date